

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
SALEM DISTRICT OFFICE
TILLAMOOK RESOURCE AREA
TILLAMOOK AND YAMHILL COUNTIES, OREGON

CATEGORICAL EXCLUSION REVIEW - NEPA COMPLIANCE RECORD

Project: Everpower Oregon LLC Rights-of-Way (OR65296, OR65297)

Date: 4/14/2008

Categorical Exclusion Number: OR-086-08-02CX

Location: Township 2 South, Range 6 West, Sections 16 and 19; Township 3 South, Range 6 West, Sections 5, 8, 9, 13, 14, 15, 16, 17 and 24, Willamette Meridian; Tillamook and Yamhill Counties; Nestucca, Trask and Yamhill River Watersheds.

Land Use Allocation(s): LSR, AMA and Riparian Reserve

Description of Proposed Action:

Everpower Oregon LLC has indicated intent to construct windpower turbines on Weyerhaeuser Corporation lands in Township 2 South, Range 6 West, Willamette Meridian, in Yamhill County. In order to obtain a more direct, cost effective access for truck hauling of materials and equipment for the windpower turbines, and for placement of an electrical transmission line cable to connect the turbine farm with an existing Bonneville Power Administration transmission line, Everpower Oregon LLC has requested rights-of-way on existing BLM-controlled roads on public lands.

Everpower Oregon LLC has identified alternative, viable truck routes and locations for the placement of the electrical transmission line cable that would not involve rights-of-way on BLM-controlled roads or public lands, however they have made the request to BLM because it is more cost effective and would result in fewer adverse environmental impacts. Because a viable alternative has been identified that would not require BLM authorization, the activities on the private lands are not interrelated to and/or interdependent with the issuance of the federal authorization and therefore not analyzed by the BLM to determine the effects on threatened or endangered species.

The proposed action is to grant the following rights-of-way to Everpower Oregon LLC for the purposes described.

- 1) Approximately 600 feet of existing BLM road 2-6-3 in T2S, R6W, section 16 for the purpose of placing an underground electrical power transmission line cable from section 9 to section 17 in T2S, R6W. The transmission line cable will be located within the existing road right-of-way, and will be buried along the road shoulder/ditch/cut slope of the road. Construction activities are anticipated to occur during the summer of 2009. Location of the buried cable will be marked with standard buried cable signage.

- 2) Existing BLM roads 2-5-29, 2-6-16 and 2-6-16.1 in T2S, R6W, section 16 for the purpose of hauling equipment and materials for the construction and operation of Everpower Oregon LLC windpower turbines.
- 3) Existing BLM roads 3-6-8, 3-6-14, 3-6-5, and 3-6-5.2 in T2S, R6W, section 5 for the purpose of hauling equipment and materials for the construction and operation of Everpower Oregon LLC windpower turbines.
- 4) Existing BLM road 2-5-29 in T2S, R6W, section 19 for the purpose of hauling equipment and materials for the construction and operation of Everpower Oregon LLC windpower turbines.
- 5) Existing BLM road 3-6-13 in T3S, R6W, sections 8, 9, 13, 14, 15, 16, 17 and 24 for the purpose of hauling equipment and materials for the construction and operation of Everpower Oregon LLC windpower turbines.

The Proposed Action also includes the maintenance of these roads by Everpower Oregon LLC. The rights-of-way would be in effect for 20 years. Issuance of these rights-of-way is a discretionary action.

Land Use Plan Conformance:

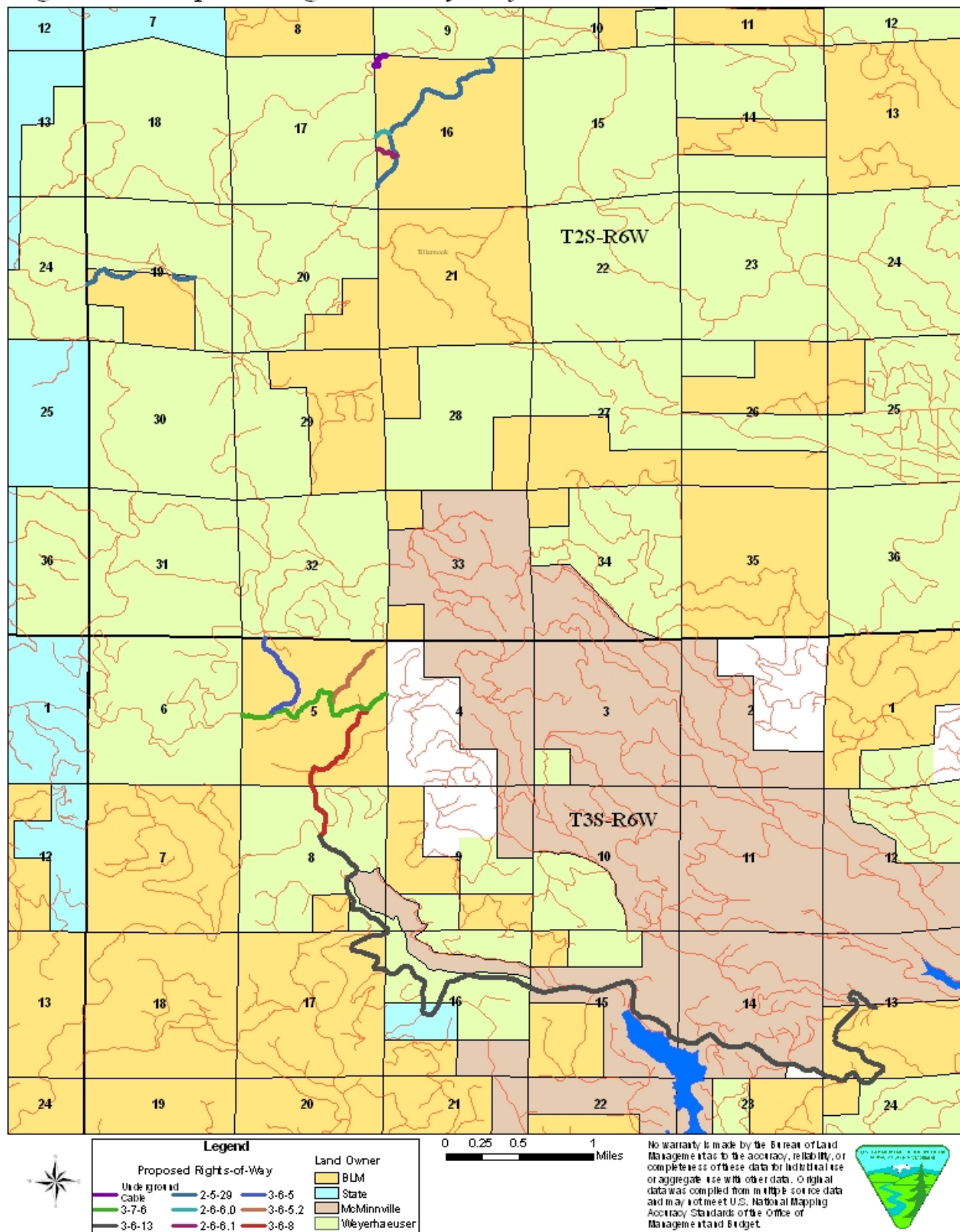
The proposed action is in conformance with the ROD/RMP (*Salem District Record of Decision and Resource Management Plan*, May 1995) and tiers to the PRMP/FEIS (*Salem District Proposed Resource Management Plan/Final Environmental Impact Statement*, September 1994).

NEPA Review: The proposed action qualifies as a categorical exclusion under Department of Interior Manual 516 DM 11, 11.5, E (12), which allows for “**Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way.**” This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment as documented in Table 1. The action has been reviewed to determine if any of the exceptions described in 516 DM 2, Appendix 2, apply (see Table 1: Categorical Exclusion Exception Review) and if any of the environmental elements are affected (see Tables 2 and 3). None of the extraordinary circumstances described in 516 DM 2 apply.

Reviewed by: Bob McDonald
NEPA Coordinator

Date: 4/15/08

Figure 1 - Everpower Rights-Of-Way Project



CATEGORICAL EXCLUSION EXCEPTION REVIEW

Table 1 shows the exceptions (Extraordinary Circumstances) to Categorical Exclusions that are listed in the Department of Interior Departmental Manual 5.16 DM 2, Appendix 2. An Environmental Document (Environmental Assessment or Environmental Impact Statement) must be prepared for any action for which any of these exceptions apply:

Table 1: Categorical Exclusion Exception Review		
Exception	Does it Apply? Yes/ No	Remarks (Potential for Exception)
2.1/ Have significant impacts on public health or safety	No	All proposed activities follow established rules concerning health and safety.
2.2/ Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.	No	No unique geographical characteristics are within the project area or affected by this project.
2.3/ Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)].	No	Based on past experience from this type of activity, there are no predicted environmental effects from the proposed action which are considered to be highly controversial nor are there unresolved conflicts concerning alternative uses.
2.4/ Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	No	Past experience from this type of activity has shown no highly uncertain, potentially significant, unique or unknown risks.
2.5/ Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	No	Similar actions have taken place throughout the district and there is no evidence that this type of project will establish a precedent or decision for future action.
2.6/ Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.	No	The BLM has conducted this type of activity in the past with no significant direct, indirect, or cumulative effects.
2.7/ Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.	No	No eligible or listed properties would be affected.
2.8/ Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.	No	See Table 2: Threatened or Endangered (T/E) Species or Habitat
2.9/ Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.	No	
2.10/ Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).	No	See Table 2: Environmental Justice

Table 1: Categorical Exclusion Exception Review		
Exception	Does it Apply? Yes/ No	Remarks (Potential for Exception)
2.11/ Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).	No	See Table 2: Native American Religious Concerns
2.12/ Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).	No	See Table 2: Invasive, Nonnative Species

ENVIRONMENTAL ELEMENTS REVIEW SUMMARY

The interdisciplinary team reviewed the elements of the environment, required by law, regulation, Executive Order and policy, to determine if they would be affected by the proposed action. Table 2 (“Critical Elements of the Human Environment” from BLM H-1790-1, Appendix 5), and Table 3 (Other Elements of the Environment) summarize the results of that review. Affected elements are **bold**. Unless otherwise noted, the effects apply to the proposed action; and the No Action Alternative is not expected to have adverse effects to these elements.

<i>Table 2: Environmental Review for the “Critical Elements of the Human Environment” (BLM H-1790-1, Appendix 5)</i>		
<i>“Critical Elements Of The Human Environment”</i>	<i>Status: (i.e., Not Present, Not Affected, or Affected)</i>	<i>Remarks</i>
Air Quality (Clean Air Act)	Not Affected	The proposed action will have no effect on air quality.
Areas of Critical Environmental Concern	Not Affected	Use of the existing Nestucca Access Road will have no effect on the Nestucca ACEC.
Cultural, Historic, Paleontological	Not Affected	The proposed action is not a ground-disturbing activity. No inventory is required and no impacts to resources are anticipated.
Energy (Executive Order 13212)	Affected	The proposed action is to grant access in association with development of a windpower project. The project will have a beneficial effect on energy development, production and supply.
Environmental Justice (Executive Order 12898)	Not Affected	The proposed action is not anticipated to have disproportionately high and adverse human health or environmental effects on minority populations and low-income populations.
Prime or Unique Farm Lands	Not Present	There are no prime or unique farm lands in the project area.
Flood Plains (Executive Order 11988)	Not Affected	The proposed action will have no effect on flood plains.
Hazardous or Solid Wastes	Not Affected	No hazardous or solid wastes will be generated.
Invasive, Nonnative Species (Executive Order 13112)	Not Affected	There will be no new ground disturbance and no effect on invasive, nonnative species.

<i>Table 2: Environmental Review for the “Critical Elements of the Human Environment” (BLM H-1790-1, Appendix 5)</i>			
<i>“Critical Elements Of The Human Environment”</i>		<i>Status: (i.e., Not Present , Not Affected, or Affected)</i>	<i>Remarks</i>
Native American Religious Concerns		Not Affected	Past activities of this type within this area have not resulted in tribal identification of concerns.
Threatened or Endangered (T/E) Species or Habitat	Fish	Not Affected	With incorporation of the design features there will be no effects to OC coho or their Critical Habitat located downstream of the proposed federal action.
	Plants	Not Affected	There will be no new ground disturbance and no effects on ESA-listed plants or their habitats.
	Wildlife (including designated Critical Habitat)	Affected	There is the potential for disturbance impacts to marbled murrelets and/or spotted owls if unsurveyed suitable habitat is within 0.25 miles of construction activities or road maintenance, however these activities if conducted during the breeding season(s) may effect and are not likely to adversely affect the marbled murrelet and/or spotted owl. As necessary, consultation with US Fish and Wildlife Service would be completed prior to any potentially disturbing activities. Compliance with the Endangered Species Act would include the incorporation of applicable Design Standards and/or Terms and Conditions, as necessary. A small portion of existing BLM road 3-6-13 in T3S, R6W, section 17 is located within and/or adjacent to Designated Critical Habitat for the spotted owl and marbled murrelet. Based on the nature of the proposed action, no impacts to habitat, including Critical Habitats, would be anticipated.
Water Quality (Surface and Ground)		Not Affected	The transmission line cable will be buried underneath a small headwater stream along the shoulder/ditch/cut slope of the existing BLM road 2-6-3 in the NW corner of T2S, R6W, Section 16. The stream crossing is gentle and the stream crosses a gentle sloping bench for approximately 600 feet. Considering that the affected stream is small and intermittent, and assuming construction activities would be confined to the dry season, there will be no effects on water quality from the proposed action.
Wetlands (Executive Order 11990)		Not Affected	There are no wetlands within the project. There will be no effect on wetlands from the proposed action.
Wild and Scenic Rivers		Not Affected	There are no Wild and Scenic Rivers within the project area. There will be no effect on wild and scenic rivers.
Wilderness		Not Affected	There will be no effect on wilderness areas.

<i>Table 3: Environmental Review for the Other Elements of the Environment (Required by law, regulation, policy or management direction)</i>		
<i>Other Elements Of The Environment</i>	<i>Status: (i.e., Not Present , Not Affected, or Affected)</i>	<i>Remarks</i>
Coastal Zone (Oregon Coastal Management Program)	Not Affected	The action is consistent with the applicable statewide planning goals identified in the Oregon Coastal Management Program.

Table 3: Environmental Review for the Other Elements of the Environment (Required by law, regulation, policy or management direction)

<i>Other Elements Of The Environment</i>		<i>Status: (i.e., Not Present , Not Affected, or Affected)</i>	<i>Remarks</i>
Essential Fish Habitat (Magnuson-Stevens Fisheries Cons. /Mgt. Act)		Not Affected	Both OC coho and chinook habitats are located downstream of these proposed ROW roads. No alteration of aquatic habitat will occur under this proposal with the incorporation of the design features listed on pages 8 and 9 .
Fire Hazard/Risk		Not Affected	The proposed action will have no effect on fire hazard or risk.
Forest Productivity		Not Affected	The proposed action will have no effect on forest productivity.
Land Uses (right-of-ways, permits, etc)		Not Affected	The proposed action will have no effect on existing land uses.
Late successional / old growth		Not Affected	The proposed action will have no effect on late successional or old growth forests.
Migratory Birds (Migratory Bird Treaty Act)		Not Affected	Due to the nature and scale of the proposed action there will be no impacts on species included in the Migratory Bird Treaty Act or their habitats.
Mineral Resources		Not Affected	The proposed action will not affect commercial mineral resources.
Recreation		Not Affected	There are no anticipated effects to dispersed recreation.
Rural Interface Areas		Not Present	There are no mapped rural interface areas in the project area.
Soils		Not Affected	The proposed action will occur in an existing road right-of-way and will not create any additional soil disturbance. The road is on gentle bench and no increase in risk for erosion or mass wasting is expected as a result of this action..
Special Areas outside ACECs (Within or Adjacent) (RMP pp. 33-35)		Not Affected	Special areas will not be affected by the proposed action.
Other Special Status Species/Habitat	Fish	Not Present	There are no Special Status Species or habitat on the lands proposed for these ROW agreements.
	Botany	Not Affected	There will be no new ground disturbance and no effects on Special Status Species or their habitats.
	Wildlife	Not Affected	Due to the nature and scale of the proposed action there will be no impacts on Special Status Species wildlife or their habitats.
Visual Resources		Not Affected	The proposed action will have no effect on visual resources.
Water Resources (except Water Quality)		Not Affected	The proposed action will occur in an existing road right-of-way and will not create any new ground disturbance. Consequently, it will have no effect on water resources.
Other Wildlife Structural or Habitat Components (Snags /CWD / Special Habitats, road densities)		Not Affected	The proposed action will have no effect on wildlife structural or habitat components.

Interdisciplinary Team Review:

Affected Resource	Specialist	Initial	Date
Botany	Kurt Heckeroth	<i>KH</i>	<i>04/14/08</i>
Recreation	Debra Drake	<i>DD</i>	<i>04/14/08</i>
Fisheries	Matt Walker	<i>MW</i>	<i>04/14/08</i>
Hydrology, Water Quality	Dennis Worrel	<i>DW</i>	<i>04/07/08</i>
Soils	Dennis Worrel	<i>DW</i>	<i>04/07/08</i>

Affected Resource	Specialist	Initial	Date
Other Resources/ NEPA	Bob McDonald	RM	04/14/08
Wildlife	Steve Bahe	SB	04/10/08

Decision:

I have reviewed this NEPA compliance record and have determined that the proposed project complies with criteria for the categorical exclusions as described under Department of Interior Manual 516 DM 2.3A. None of the exceptions to categorical exclusion apply, nor are any of the environmental impacts to the elements of the environment considered to be significant. Therefore, an environmental assessment or an environmental impact statement is not needed. It is my decision to implement the proposed action, as described, subject to the mitigation measures identified below.

Mitigation Measures/Other Remarks:

Road construction activities, including the burying of the transmission line along the shoulder/ditch/cut slope of road 2-6-3, would occur during the dry season (generally June 1 through October 15). All work required in live streams would be limited to the ODFW instream work window (July 1 to September 30).

Road maintenance activities on BLM roads 3-6-8, 3-6-14 and 3-6-5.2 within T2S, R6W, Section 5 that are conducted between April 1 and September 15 would incorporate daily time restrictions limiting noise generating operations to the hours between two hours after sunrise and two hours before sunset.

Weight restrictions would be enforced at two stream crossing structures on the Nestucca Access Road as follows.

STRUCTURE NAME	VEHICLE CONFIGURATION	INVENTORY RATING (NORMAL TRAFFIC) (TONS)	OPERATING RATING (MAXIMUM LOAD) (TONS)
3-6-13 Nestucca Rd.mp 3.71	TYPE 3	36	50
Nestucca R Box Culvert	TYPE 3S2	58	78
	TYPE 3-3	71	97
3-6-13 Nestucca Rd mp 6.87	TYPE 3	37	53
Nestucca River, at chute	TYPE 3S2	59	85
	TYPE 3-3	63	91

Buried cables shall be placed in protective tubing and their location delineated with standard signage. Any waste materials created by construction shall be endhauled off BLM lands.

Disturbed subgrades and embankments shall be compacted until a uniform density of not less than 95% of the maximum determined by AASHTO T 99, Method C, is attained at the moisture content suitable for such density.

Ditch lines where underground cables are placed shall be compacted as above, and seeded and mulched with native grass seed prior to September 1. Wattles shall be placed in the ditch line to prevent sediment runoff.

Prior to construction activities BLM would assess road conditions; upon completion of construction activities the permittee shall repair and replace road surfacing to its previous conditions as described by the BLM.

Permittee would notify BLM at least one week prior to initiation of road use.

BLM would inspect these roads during wet weather conditions to determine if sediment control measures (additional rocking, sediment control structures) or cessation of road use are necessary. Road use may be suspended during periods of wet weather, freeze-thaw periods or changes in road condition that would result in road sediment entering streams.

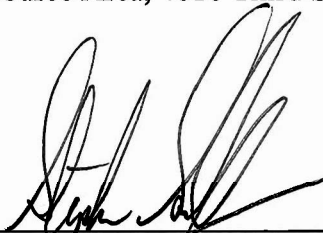
Administrative Remedies:

Notice of the forest management decision to be made on the action described in this categorical exclusion will be posted on the Salem District internet website. The action is subject to protest under 43 CFR section 4.450-2. A decision in response to a protest is subject to appeal to the Interior Board of Land Appeals under 43 CFR part 4.

Contact Person:

For additional information concerning this CX Review, contact Bob McDonald, Environmental Specialist, Tillamook Resource Area, 4610 Third Street, Tillamook OR 97141, (503) 815-1110.

Authorized Official: _____


for Brad Keller, Field Manager
Tillamook Resource Area

Date: 4/16/2008